



STATE OF UTAH CONTRACT

1. CONTRACTING PARTIES: This contract is between the following Agency of the State of Utah:

Dept. of Transportation	810	Proc./Statewide	referred to as STATE and the following:
Agency Name	Agency Code	Division	
CONTRACTOR	TMT Pathway LLC		LEGAL STATUS OF CONTRACTOR
	Name		<input type="checkbox"/> Sole Proprietor
	P O Box 790379		<input type="checkbox"/> Non-Profit Corporation
	Address		<input checked="" type="checkbox"/> For-Profit Corporation
St. Louis	MO	63179	<input type="checkbox"/> Partnership
City	State	Zip Code	<input type="checkbox"/> Government Agency
Candice Edmondson	(800)	835-3357	
Contact Person	Phone Number		
223634704	51589J-B	63066868850, 63066869304, 63066000000	
Federal ID#	Vendor Number	Commodity Code(s)	

2. CONTRACT TYPE AND PURPOSE:

This is a requirements contract to provide the State with solvent based traffic paint.

3. PROCUREMENT: This contract is entered into as a result of the Procurement process on bid RF6007,  
Requisition # 810 66000000005, FY 2006.
4. CONTRACT PERIOD: Effective date 07 - Oct. - 2005. Termination date 06 - Oct. - 2008, unless terminated early or extended in accordance with the terms of this contract. Renewal Options (if any) None.
5. CONTRACT COSTS: This is a requirements contract. See Attachment C for pricing.
6. ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions.  
ATTACHMENT B: Scope of Work.  
ATTACHMENT C: Itemized Price List.  
ATTACHMENT D: Special Terms and Conditions.  
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.
7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:  
A. All other governmental laws, regulations or actions applicable to the goods and/or services authorized by this Contract.  
B. Utah State Procurement Code, Procurement Rules and Contractor's responses to Bid # RF6007 dated 03-Aug.-2005.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR  
SEE ATTACHED

Contractor's Signature  
CANDICE EDMONDSON

Contractor's Name  
CUSTOMER SERVICE MANAGER

Title

STATE OF UTAH

David K. Miles, Operations Engineer

Director, Division of Purchasing  
CONTRACT RECEIVED AND  
PROCESSED BY  
DIVISION OF FINANCE  
NOV 15 2005  
NOV 21 2005  
Director, Division of Finance

Debra Boulton	(801) 965-4070	(801) 965-4073	dboulton@utah.gov
Agency Contact Person	Phone Number	Fax Number	Email address

**MAIL TO:**

STATE OF UTAH  
DIVISION OF PURCHASING  
3150 STATE OFFICE BUILDING, CAPITOL HILL  
P.O. BOX 141061  
SALT LAKE CITY, UTAH 84114-1061  
TELEPHONE (801) 538-3026  
<http://purchasing.utah.gov>

**Invitation to Bid**Solicitation Number: **RF6007**Due Date: **08/03/05 @ 2:00 p.m.**

Date Sent: July 15, 2005

**Agency Contract**Goods and services to be **SOLVENT BASED TRAFFIC PAINT****Must complete**

Company Name <b>TMT Pathway LLC</b>		Federal Tax Identification Number <b>22-3634704</b>	
Ordering Address <b>1675 Commercial St NE</b>	City <b>Salem</b>	State <b>OR</b>	Zip Code <b>97303</b>
Remittance Address (if different from ordering address) <b>Po Box 790379</b>	City <b>St Louis</b>	State <b>MO</b>	Zip Code <b>63179</b>
Type <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person <b>Candice Edmondson</b>		
Telephone Number (include area code) <b>1-800-835-3357</b>	Fax Number (include area code) <b>1-800-774-8464</b>		
Company's Internet Web Address <b><a href="http://www.tmtpathway.com">www.tmtpathway.com</a></b>	Email Address <b><a href="mailto:cedmondson@jacksonproducts.com">cedmondson@jacksonproducts.com</a></b>		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered) <b>N/A</b>	Days Required for Delivery After Receipt of Order (see attached for any required minimums) <b>As required within 30 days</b>		

The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, terms and conditions and specifications. Please review all documents carefully before completing.

The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes \_\_\_\_\_ No X . If no, enter where produced, etc. Los Angeles CA

Offeror's Authorized Representative's Signature 	Date <b>August 8, 2005</b>
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## ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NON APPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.

14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
16. **PUBLIC INFORMATION::** Contractor agrees that the contract will be a public document, and may be available for distribution. Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card (major credit card).
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS::** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-1002, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Additional Terms and Conditions; 3. Contractor Terms and Conditions.

**SPECIAL PROVISION**  
**SECTION 5201 S (1/30/02)**

**SOLVENT BASED TRAFFIC PAINT**

**PART 1      GENERAL**

**26.      SECTION INCLUDES**

- A. Furnish solvent-based, bead binder traffic paint for use on asphalt concrete or Portland cement concrete pavements as edge lines, center lines, skip lines, guide lines, and other related markings.

**1.2      REFERENCES**

- A. ASTM D 476: Titanium Dioxide Pigments
- B. ASTM D 522: Mandrel Bend Test of Attached Organic Coatings
- C. ASTM D 562: Consistency of Paints Using the Stormer Viscometer
- D. ASTM D 711: No-Pick-Up Time of Traffic Paint
- E. ASTM D 968: Abrasion Resistance of Organic Coatings by Falling Abrasive
- F. ASTM D969 Bleeding Over Asphalt
- G. ASTM D 1729: Visual Appraisal of Colors and Color Differences of Diffusely-Illuminated Opaque Materials
- H. ASTM D 2805: Hiding Power of Paints by Reflectometry
- I. ASTM D 2369: Volatile Content of Coatings
- J. ASTM D 2371: Pigment Content of Solvent-Reducible Paints
- K. ASTM E 1347: Color and Color-Difference Measurement by Tristimulus (Filter) Colorimetry
- L. Federal Standard 595a, color sample 33538.
- M. ASTM D1475 Density of Paint
- N. ASTM D969 Bleeding of Traffic paint

### **1.3 SUBMITTALS**

- A. Representative samples of each batch of paint to be shipped to UDOT with batch, product, and date manufactured codes and certification of compliance from the manufacture.
  - 1. After receiving an intent to award, the bidder will secure the services of an approved accredited laboratory acceptable to UDOT to sample the proposed paint and issue a certificate of compliance with these specifications using the referenced test methods.
  - 2. UDOT must receive these test results and the certificate of compliance directly from the testing lab and representative samples of the paint tested within 14 calendar days of the notification of intent to award the bid.
  - 3. Once certificate of compliance is received, UDOT will perform an IR scan and uniformity tests on the submitted samples and use these as a comparison for all future batches.
- B. Quality Assurance (QA) plan
  - 1. Required within seven days of receiving the notice of intent to award bid.
  - 2. Detail the methods and procedures used to ensure consistent production and shipment of a material meeting the performance requirements of this specification.
  - 3. Identify personnel responsible for carrying out the plan.
- C. Submit a one pint can sample of each type of paint for each batch of paint shipped to UDOT. Identify sample with batch, product, and date manufactured. A manufacture's certificate of compliance will accompany each sample.
- D. Submit samples and reports to UDOT Central Maintenance; 4501 South 2700 West Box148250; Salt Lake City, UT 84114-8250.

### **1.4 QUALITY CONTROL/QUALITY ASSURANCE**

- A. Inspection:
  - 1. UDOT reserves the right to obtain samples at the plant at the time of manufacture from an independent source, and delay shipment until tests indicate the paint is acceptable.
  - 2. All paint furnished under this specification must be identical, in much as possible, with the qualification samples.
  - 3. The paint supplier is responsible for all costs incurred for samples to be taken by an independent source and for shipping costs to UDOT.
  - 4. UDOT will test the samples.
  - 5. After delivered paint is thoroughly mixed, UDOT intends to sample the paint and perform an IR scan on the paint samples.

B. Technical Support

1. The paint supplier will furnish a factory representative to make a field visit to the Region 4 headquarters in Richfield, UT to instruct UDOT personnel on the successful use and handling of the paint.
2. Schedule this visit to occur within two weeks of the initial paint delivery. .

**PART 2 PRODUCTS**

**2.1 PAVEMENT MARKING MATERIAL - PHYSICAL PROPERTIES**

A. Viscosity (in Krebs Units)

1. At 70 F, 70-75 KU
1. At 50 F, 86 KU maximum
2. At 122 F, 66 KU minimum

B. Weight per gallon at 70 F

1. White 11.0 pounds minimum
2. Yellow 11.0 pounds minimum
3. Black 11.0 pounds minimum

C. Contrast ratio at spread rate of 320 sq. ft. per gallon

1. White .92 minimum
2. Yellow .86 minimum
3. Black N/A

D. Daylight reflectance (at 10 mils wet film thickness)

1. White 86%
2. Yellow 44-52%
3. Black N/A

E. Nonvolatile content (total at 212 F) - 70% minimum

F. Pigment content of total weight - 53% maximum

G. Flexibility - Pass ½ inch mandrel bend

H. Dry to no pick-up (in the field with beads) - 2 minutes maximum

I. Bleeding over asphalt at 15 mils wet film thickness - 87% minimum

J. Settling in the container

- a. Not allowed in preshipment samples as received by the central Materials Laboratory. Only slight soft settling is allowed after the sample has aged undisturbed for one month. Hard caking in the bottom of the container is not allowed.

- b. The material shall not show evidence of heavy caking or settling which requires mechanical means to return the product to usable condition for a period of one year from the date of manufacture.
- K. Storage Stability:
  - 1. Viscosity increase greater than 10 Krebs Units over the originally reported viscosity after aging in the container for six months is not allowed.
  - 2. Batches stored one year or less shall not show evidence of corrosion of the container or decomposition of the product.
  - 3. Evidence of undissolved gelatinous vehicle separation, or heavy skin formation in batches in storage one year or less is not allowed.
  - 4. Containers stored under adverse conditions, such as in open unprotected areas, shall not show evidence of the above conditions for a period of six months from the date of shipment from manufacturer.
- L. Color - Yellow. Match Federal Standard 595a color sample number 33538.
- M. Abrasion Resistance: Falling Sand Abrasion Test - 125 liters minimum at 3 mil dry film thickness.
- N. No Track Time in Lab: Five minutes maximum

## **2.2 COMPOSITION REQUIREMENTS**

- A. Pigment Requirements: First quality paint grade.
  - 1. Yellow:
    - a. Must not contain lead, mercury, cadmium, hexavalent chromium or other toxic heavy metals.
  - 2. White: Titanium Dioxide Rutile-type:
    - a. Meeting ASTM D476, Type II, III, or IV is to be used for the white traffic paint.
  - 3. Inert or filler pigments:
    - a. A type and quality generally recognized as first quality paint grade products.
    - b. Cannot contribute to settling of the paint in storage or be so hard that it causes excessive wear of the spray application equipment.
- B. Vehicle or Resinous Binder Composition
  - 1. The vehicle may be any combination of natural or synthetic resinous materials allowed by federal law.
  - 2. All resins used must be permanently capable of redissolving in the solvent combination used in the paint to minimize build-up of the paint on the sides of tanks, paint lines, and clogging of spray equipment from undissolvable skins.
  - 3. Resins which dry by the process of oxidation and/or polymerization such as alkyd resins are specifically excluded.



- C. Paint must be free from deleterious materials that would interfere with the operation of the paint equipment or the quality of the applied paint.

## 2.3 QUALITY CONTROL - TESTING

- A. Bleeding Over Asphalt: ASTM E969 or current revisions.
  - 1. Use substrate as in Paragraph 3.2 except compare reflectance measurement over asphalt paper area to reflectance measurement over taped area.
  - 2. 
$$\frac{(\text{Reflectance Over Asphalt Paper Area})}{(\text{Reflectance Over Taped Area})} \times 100 = \% \text{ Bleed over Asphalt}$$
- B. Settling: Test for a period of six months following ASTM D869, or current revisions.
  - 1. Accelerated Settling
    - a. The apparatus shall consist of a motor driven (gear reduced) drive shaft on which a ½ inch shim rides under a bearing wheel. The shim raises and lowers a sample tray providing a shock to the sample which accelerates pigment settling. The sample tray may contain up to 16 sample jars, (1 pint glass jars) containing paint samples.
    - b. Procedure: Fill sample jar to 12 ounce mark with the test paint. Screw lid on securely and place in section of sample tray. The Settling test consists of one week on the settling device (24 hours each day) in a room maintained at a temperature of 77 degrees F (25 degrees C). If this temperature cannot be maintained in a laboratory environment, a cabinet and heat lamp can be used to maintain this temperature.
    - c. Evaluation: The paint sample must show no more than 1/4 inch of clear material over the opaque portion of the paint and there must be settling below a rating of eight (ASTM D869).
- C. Field No Track Test
  - 1. The paint dries to a non-tracking condition in 2 minutes maximum when applied at 15 mils wet film thickness at ambient temperature (77 degrees F, 50% relative humidity), with 6 pounds of glass beads per gallon of paint.
  - 2. "No Tracking" is required for the line to withstand the running of a standard automobile over the line at a speed of approximately 40-mph without tracking of the reflectorized line when viewed from a distance of 50-feet.
- D. Color
  - 1. Prepare paint draw downs following ASTM E1347.
  - 2. Evaluate the reflectance of the white paint following ASTM E1347
  - 3. Evaluate the color of the yellow paint following ASTM D172

E. Redissolve Test

1. Apply the paint to a glass panel at a wet film thickness of 15 mils.
1. Air dry for 18 hours at 77 degrees F (25 degrees C) and then bake at 140 degrees F (60 degrees C) for 5 days.
2. Allow panel to cool. Place the glass panel in a quart can that is half filled with the same paint tested at 77 degrees F (25 degrees C).
3. Seal the can and leave undisturbed for 18 hours.
4. Remove the glass panel from the can, immediately draw a wooden stick or spatula lightly over the painted surface.
5. Acceptable result: The immersed portion of the paint film has completely dissolved with no evidence of dried paint remaining on the panel.

F. See table 1 for more tests.

**Table 1 - Test Methods**

Viscosity	ASTM D562. Use Stormer Viscosimeter
Contrast Ratio	ASTM D 2805
Total Nonvolatile Content	ASTM D 2369
Pigment Content	ASTM D 2371
Flexibility	ASTM D 522
Abrasion Resistance	ASTM D 968
Lab No Track Time	ASTM D 711

**PART 3      EXECUTION - NOT USED**

END OF SECTION

## ATTACHMENT C: ITEMIZED PRICE LIST

<u>Description</u>	<u>Price</u>
White Traffic Paint	\$ <u>9.00/gal</u>
Yellow Traffic Paint	\$ <u>9.25/gal</u>
Black Traffic Paint	\$ <u>7.50/gal</u>

## **ATTACHMENT D: SPECIAL TERMS AND CONDITIONS**

1. **CONTRACT ACCEPTANCE:** At the time the bid is signed by the Offeror, the signature of that Offeror will be used as a legally binding signature if awarded this contract. When signed by the Division of Purchasing and a Utah Department of Transportation representative and assigned a contract number, this document will become a legally binding contract with the Offeror for the contract period specified.
2. **QUANTITY OR AMOUNT ESTIMATES:** Estimated contract amounts/quantities are for bidding purposes only and are not to be construed as a guarantee to purchase any service or specific amount.
3. **PRICING:** The Contractor agrees that the prices bid on materials in this contract shall be guaranteed for the term of the contract. The Contractor agrees all costs shall be included in the unit bid price per gallon including freight costs and VOC exceedence fees.

**ANY CHANGE REQUEST ON PRICES MUST GUARANTEE THE PRICE FOR THE SAME LENGTH OF TIME AS INDICATED ABOVE AND MUST BE MADE AT LEAST THIRTY (30) DAYS PRIOR TO THE REQUESTED EFFECTIVE DATE. ANY REQUEST FOR CHANGE ON PRICES OR SPECIFICATIONS MUST INCLUDE SUFFICIENT DOCUMENTATION SUPPORTING THE REQUEST. REQUESTS FOR CHANGE ON PRICES OR SPECIFICATIONS SHALL NOT BE EFFECTIVE UNTIL IT IS APPROVED BY THE PROCUREMENT SUPERVISOR OR THE PROCUREMENT MANAGER OF THE UTAH DEPARTMENT OF TRANSPORTATION.**

4. **WAGES:** The Contractor shall be responsible for all applicable company wages in accordance with the federal, state and local laws and ordinances.
5. **INVOICING:** **THE CONTRACT NUMBER AND ORDER NUMBER MUST APPEAR ON ALL INVOICES, BILLS OF LADING, PACKAGES AND ALL CORRESPONDENCE RELATING TO EACH ORDER AND DELIVERY.**  
In the event the State is entitled to a cash discount, the period of computation shall commence on the delivery date or the date of a correct invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval is authorized. The State reserves the right to adjust incorrect invoice.

## ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

6. **NON-COMPETE CLAUSE:** The Contractor represents its officers and employees are free to contract with the State and are not subject to restrictions by the terms of their present or past employment including, but not limited to an agreement not to compete for a period of time unless disclosure has been made. A Contractor must disclose to the State any possible conflicts, in writing, before the contract is signed and the State will evaluate whether to continue with contract execution. The State may elect to terminate a contract immediately with a Contractor who is subsequently determined to be subject to such restrictions without liability to the State. If the State elects to terminate a contract for this reason, the State will supersede Paragraph #12, Attachment A - Standard Terms and Conditions and will not provide the specified notice to the Contractor.
7. **LICENSING:** The Contractor agrees to secure and maintain all necessary licenses, permits and bonds that may be required by the State or local authorities to perform said service.
8. **DELIVERY:** Traffic paint shall be ordered on an as needed basis, and delivered within 30 days of order. All deliveries will be made by flat bed or regular van type trailers. The State will provide mechanical means to off load material. If the Contractor elects to use regular van type trailer, the Contractor will be responsible to move material to where it can be off loaded by a fork lift. The State will supply either a two wheel barrel dolly or pallet truck to accomplish this.

Delivery of paint is to be coordinated with the Region/District Paint Foreman, at least three (3) working days prior to arrival, unless otherwise designated by an authorized representative of the State. Delivery will not be accepted after working hours, weekends or holidays.

Alteration of this delivery schedule by the Contractor or Region/District will not be allowed without written consent of the Region/District Engineer for Maintenance.

9. **LIQUIDATED DAMAGES:** The State may accept non-specification paint. If the paint is accepted, liquidated damages of ten percent (10%) of the unit bid price will be assessed.

Paint and/or barrels, failing for any reason to comply to these specifications and requirements, shall be replaced within fifteen (15) calendar days after notification.

Paint not replaced fifteen (15) calendar days following a registered mail "Notice of Non-Compliance," shall be obtained from an alternate Contractor with the total cost of inspection, handling and replacement being the responsibility of the Contractor or recovered from the Contractor's performance bond.

## ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

10. **DELIVERY INFORMATION:** The traffic paint shall be furnished in new or reconditioned serviceable, non-leaking 55 gallon steel drums meeting Federal Regulation #49 CFR parts 172 - 180, 10-01-01 edition. Drums shall have full removable heads, no bung holes, 3 rolling hoops, 12 gauge locking rings with 5/8 inch locking bolts and nuts. Minimum metal thickness to be 1.09 mm. Each drum shall have a removable head lid and shall be fixed to the drum by the use of a heavy duty bolt and ring assembly.

All drums shall remain the property of the supplier and shall be picked up by the supplier when requested by UDOT. Each drum lid shall be painted to match color of paint contained in the drum. The Contractor shall remove used barrels within thirty (30) days of pickup notice. At the time of barrel pickup, a document shall be prepared by the State showing the number of barrels being taken and signed by a representative of the Contractor and the State. The Contractor shall be responsible for loading the barrels onto the truck at the time of removal.

Each drum shall contain the U.S. gallons of traffic paint listed on the container and shall remain labeled on the side of the drum (not bottom or drumhead) showing the exact title of the specifications, manufacturer's name, date of manufacture, lot number and manufacturer's batch number, and shall be labeled in accordance with the latest edition of the Utah Industrial Commissions's General Safety Orders. Each container shall be lined as appropriate to prevent corrosion and/or jelling on the inside walls of the drums. The lining must not come off the container as a skin. Precautions listed on the drums for drum handling shall be in accordance with the latest edition of the Industrial Commission of Utah General Safety Orders covering Utah industries, including safety, pollution control and warnings.